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Chairman : Ms. Cronenberg-Mossberg (Vice-Chairman) ..... (Sweden)

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The meeting was called to order at 10.20 a.m.

Agenda item 92: Sectoral policy questions: preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin (A/58/125, A/58/204)

1. **Mr. Vlassis** (United Nations Office on Drugs and Crime) said that although it was impossible to measure the exact extent of transfers of funds of illicit origin, there was no question that corruption and the laundering of the proceeds of corruption had a disastrous effect on international economies and policies. The International Monetary Fund (IMF) had estimated that the total amount of money laundered each year accounted for between three and five per cent of the global gross domestic product and that a substantial share of that money represented the proceeds of corruption.

2. In 2000, when the Second Committee had decided to take a special interest in the problem and to encourage the international community to seek adequate solutions, the General Assembly had adopted resolution 55/61, creating the Ad Hoc Committee for the Negotiation of a Convention against Corruption and the problem of asset recovery had become a key element of the future convention. In 2001, the Assembly had endorsed the recommendations of the Intergovernmental Open-Ended Expert Group to Prepare Draft Terms of Reference for the Negotiation of an International Legal Instrument against Corruption (resolution 56/260) and reaffirmed the importance of asset recovery in such an instrument. Pursuant to General Assembly resolution 55/188, the United Nations Office on Drugs and Crime had undertaken a study of the question and had requested responses from Member States, as well as from other United Nations agencies and from international organizations. At its tenth session, held in 2001, the Commission on Crime Prevention and Criminal Justice had attached priority to the question, and on its recommendation, the Economic and Social Council had adopted its resolution 2001/13, in which it had requested the Secretary-General to prepare for the Ad Hoc Committee a global study on the transfer of funds of illicit origin.

3. It was clear from the different reports of the Secretary-General on the subject, as well as from the global study, that the problem was a complex one, given the nature of the acts involved and the difficulty of dealing with the perpetrators and their status. One of the main conclusions of the reports had been that no matter how difficult or complex the problem might be, it was imperative that the international community should take concerted and decisive action to solve a problem that affected the whole world.

4. In its resolution 57/244, the General Assembly had urged an early completion of the negotiations on a Convention against Corruption to allow for its adoption at the fifty-eighth session. The Ad Hoc Committee had completed it work on 1 October. One of the chapters of the Convention dealt with the recovery of assets derived from acts of corruption, showing that the international community had reached the consensus needed to pursue that goal. The draft Convention included as a fundamental principle the repatriation of assets, and States Parties should offer their full cooperation to that end, particularly with regard to confiscation.

5. **Mr. Benmellouk** (Morocco), speaking on behalf of the Group of 77 and China, said that corruption was a common problem in developed and developing countries alike, but it had different consequences in different cases. Governments could not fight effectively against the phenomenon without the participation of civil society, the private sector and actors on the economic scene. Nor would the fight against corruption be effective without international cooperation. In that regard, he pointed out that at the International Conference on Financing for Development, the heads of State and government had made a commitment to assign priority to the fight against corruption.

6. The Group of 77 and China noted with satisfaction that the Ad Hoc Committee for the Negotiation of a Convention against Corruption had completed its work and that consensus had been reached on the application of simple rules at the national and international levels for returning funds of illicit origin to the countries of origin. They were also pleased that the Mexican Government would be hosting the conference at which the Convention would be

signed, and urged all Member States to participate in that conference.

7. **Mr. Bernardini** (Italy), speaking on behalf of the European Union, said that the Acceding Countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia) and the Associated Countries (Bulgaria, Romania and Turkey) aligned themselves with his statement. All those countries welcomed the entry into force on 29 September 2003 of the United Nations Convention against Transnational Organized Crime, which included comprehensive measures for dealing with transnational organized crime, including offences related to corruption and money laundering, and requirements for international cooperation in the seizure and confiscation of any property or assets related to the offences covered by the Convention. It would certainly enhance the ability of the international community to combat corruption and the transfer of illicit funds. The European Union also welcomed the conclusion of negotiations on a Convention against Corruption, which would give States Parties an arsenal of provisions for strengthening their ability to combat corrupt practices.

8. The adoption of those instruments was essential since the increasing financial interdependence of international financial markets made them vulnerable to criminal activities. International collaboration had been intensified through existing forums and organizations, such as the G-8 finance ministers, the Organization for Economic Cooperation and Development (OECD), the World Bank, the International Monetary Fund (IMF) and the Financial Action Task Force on Money Laundering (FATF). The fight against corruption had to be brought to the attention of the pertinent United Nations bodies and placed in the broader context of a coherent and sustainable approach to development. In that context, the European Union welcomed the work carried out by the United Nations Office on Drug and Crime (UNODC), in particular the Global Programme against Corruption, a very important initiative aimed at elaborating strategies to fight corruption internationally, through shared experience with international experts and practitioners.

9. **Mr. Stanislavov** (Russian Federation) said that his delegation was pleased that the Ad Hoc Committee for the Negotiation of a Convention against Corruption had completed its work. The draft Convention took into account many concerns of the international community regarding the problem of corruption, and the Russian Federation was prepared to cooperate on those issues. His Government attached great importance to the principle of the repatriation of funds of illicit origin and believed that no effort should be spared to implement such measures.

10. The Russian Federation had taken steps in the administrative, political and legislative spheres to combat corruption. In 2001, it had enacted a federal law on the prevention of money-laundering. In 2002, a presidential decree had been issued establishing general principles on the ethical behaviour of officials. In 2003, the Duma had passed a bill on the fight against corruption. A national programme and plan of action against corruption were being drawn up. The efforts of the Russian President and Government to combat corruption had been recognized by the international community; accordingly, the Russian Federation had become a member of the Egmont Group and of FATF.

11. **Mr. Lolo** (Nigeria) said that his country endorsed the statement made by the representative of Morocco on behalf of the Group of 77 and China. Given the many obstacles that hampered the fight against corruption and efforts to recover assets, as described in the Global study on the transfer of funds of illicit origin, especially funds derived from acts of corruption (A/AC.261/12), he urged governments that had not yet done so to take measures to prevent corruption and draw up a code of ethics for the public and private sectors, as well as rules on procurement, financial management and financing of political parties. In order to be effective, such measures should be harmonized with others at the national, regional and international levels.

12. Nigeria had some reservations about the recommendations included in the report of the Secretary-General (A/58/125) concerning the return of funds. It was unthinkable that States should need a financial incentive to collaborate in the recovery of funds. Given the connection between dirty money and the financing of terrorism, arms purchases and the financing of domestic conflicts, there was good reason to believe that the international community would work in harmony to fight that threat without the need for a financial incentive. Nigeria feared that if the recovery of funds of illicit origin was contracted with private

companies, that would inevitably give rise to a market that would encourage corruption and profiteering.

13. Furthermore, Nigeria was not convinced that recovered funds should be allocated to servicing national debt. Those funds would be better used in areas such as education, water distribution, health services, infrastructure and poverty eradication. After all, did not some of those funds represent commissions paid for government procurement, the embezzlement of funds earmarked for social and other services and mismanagement of national resources? His remarks should not be construed to mean that Nigeria was opposed to the participation of governments, civil society and the private sector in the recovery of funds and assets of illicit origin. His country looked forward to the conference to be held soon in Mexico for the purpose of signing the United Nations Convention against Corruption.

14. **Mr. Lovald** (Norway) said that corruption was a global problem with political and social consequences that hindered economic growth, especially in the developing countries. It must be fought by all means in order to halve the share of the world's poorest by 2015. Norway was prepared to do its share in the effort, but no country could overcome corruption nationally; international cooperation was imperative. The United Nations Convention against Corruption was a necessary framework for better coordinated action to combat the multifaceted problem, including private sector corruption, and to repatriate illicit funds. Norway urged all States to do their utmost to ratify the Convention and, to ensure that it did not remain merely fine words, to implement the necessary follow-up mechanisms.

15. **Mr. Balarezo** (Peru), speaking on behalf of the Rio Group, said that corruption not only undermined society, democracy and institutions, but it also hindered the mobilization and utilization of resources, as well as social, economic and political development. It was a transnational and multidimensional phenomenon that spared neither the developed nor the developing countries; it ate away at the public and private sectors and held in its claws both those who promoted corruption and those who allowed it or were accomplices to it. It must be resisted on all fronts. Governments, international organizations, non-governmental organizations and civil society must cooperate with each other and give each other a hand in facilitating the return of assets of illicit origin to the countries of origin and prosecuting all those who were guilty of embezzlement, even if they were eminent public or private personalities. They must ensure that the rule of law and democratic values prevailed.

16. The United Nations Convention against Corruption, which was based on the principles of international law, constituted a valuable weapon, since it provided for mutual juridical assistance in connection with criminal prosecution and rapid extradition. It also introduced innovations, particularly on the issue of asset recovery. The members of the Rio Group strongly urged all Member States to ratify the Convention so as to ensure that it would enter into force as soon as possible.

17. **Mr. Muchemi** (Kenya) said that Kenya aligned itself with the statement made by the representative of Morocco on behalf of the Group of 77 and China. Only international cooperation could promote the good governance in public affairs and proper management of businesses that were essential to economic growth, sustainable development and poverty eradication.

18. Corruption, which was omnipresent in Africa, kept the continent on the brink of economic development and locked its inhabitants in the infernal cycle of poverty. Having no boundaries, it gnawed away at civil servants and private citizens and called into question the sense of responsibility of developed countries.

19. Given its transnational reach, corruption went hand-in-hand with other evils such as drug trafficking, money-laundering and terrorism. It jeopardized democracy in Africa by giving politicians of shady character the means to manipulate the political, social and economic scene, to the detriment of their people.

20. The persons responsible for such crimes must be unmasked and brought to justice, and their ill-gotten gains must be returned to the countries of origin. The fight against corruption must be fought everywhere and by everyone, both governments and international organizations, both private sector and civil society.

21. Kenya was indeed fighting its own war. Thus, under the Anti-Corruption and Economic Crimes Act (2003), the Government had set up special courts to consider cases of corruption. The new Anti-Corruption Commission was responsible for investigating cases of corruption and prosecuting those responsible, as well as for implementing anti-corruption programmes. The

Anti-Corruption Advisory Board, which was made up of personalities known for their integrity, advised the Government on corruption-related issues and oversaw the work of the Commission. The Act also included provisions for compensating the victims of fraudulent acts and for recovering the proceeds of corrupt practices or economic offences.

22. Under the Public Officer Ethics Act, officials were required to observe a code of ethics and to submit yearly declarations stating their income, assets and debts.

23. Kenya had launched the Public Sector Integrity Programme to make public officials aware of the consequences of corruption, to provide them with strategies for fighting corruption and to give them the necessary skills to help prevent corruption. Corruption Prevention Committees had been set up throughout the public sector.

24. The report of the Integrity and Anti-Corruption Committee of the Judiciary, which was responsible for investigating the extent of corruption in the judiciary, would enable the Government to make the necessary changes to eradicate all forms of corruption and fulfil its role on the international scene.

25. Kenya had high hopes for the United Nations Convention against Corruption, which would be a valuable tool for pursuing the battle against corruption.

26. **Mr. Empole** (Democratic Republic of the Congo) said that his country endorsed the statement made by the representative of Morocco on behalf of the Group of 77 and China. Because of its global scope, corruption could destabilize the international financial scene and compromise the social, economic and political development of all States. It was destructive both in its causes (poverty, bad governance, armed conflict and others) and in its consequences (terrorism, trafficking of arms, drugs and people, money-laundering and others). Corruption must be fought relentlessly at the national, regional and international levels.

27. In the context of its own struggle against corruption, the Democratic Republic of the Congo had created a national commission against corruption, fraud and smuggling, as well as against the counterfeiting of money and of registered trademarks.

28. To put an end to money-laundering, which was inextricably tied to corruption, the Government had set up a special group to study the problem. It had also prepared two draft bills aimed at fighting money-laundering and the financing of terrorism, and had issued instructions for financial establishments concerning regulations for combating money-laundering.

29. The Democratic Republic of the Congo had signed the Anti-Corruption Protocol of the Southern African Development Community and was preparing to ratify the United Nations Convention against Transnational Organized Crime.

30. Nevertheless, his country, which was still suffering the aftermath of the war, needed the help of the international community in pursuing its fight against corruption.

31. Assets of illicit origin should be returned to the countries of origin in order to enable those countries to consolidate their economies and pursue their development programmes. In more general terms, in order to fight corruption and the transfer of funds of illicit origin, it was essential to strengthen national laws and regional and international cooperation in fighting corruption and organized crime. Countries whose assets had been plundered should be able to recover them, cooperation between public authorities and non-governmental organizations should be strengthened, and they should be provided with additional means, seminars and sensitization and educational campaigns should be organized, so as to instruct the public about the problem, and the Financial Action Task Force on Money Laundering (FATF) should be expanded.

32. **Mr. Cano** (Nicaragua) said that his delegation aligned itself with the statement made by the delegation of Morocco on behalf of the Group of 77 and China, as well as the statement made by Peru on behalf of the Rio Group.

33. To a large extent, the improper use of State resources for personal gain was responsible for the poverty that had burdened Nicaragua for much too long. The country was determined to engage in a relentless fight against corrupt practices, but it needed technical assistance in order to train its personnel and its institutions for that task. To regain the confidence of investors and to speed up its development efforts, Nicaragua had chosen moral renovation, honesty, transparency and sense of responsibility as its by-words.

34. Nicaragua had drawn up a national plan to promote integrity that was aimed at gradually but systematically reducing the causes and the manifestations of administrative corruption and related practices. It was improving mechanisms for encouraging the participation of civil society, with a view to bringing about a cultural transformation and ensuring transparency and efficiency in the daily conduct of public affairs.

35. Nicaragua was also a party to several international treaties on corruption, including the United Nations Convention against Transnational Organized Crime, the Central American Convention on the Prevention and Repression of the Laundering of Money and Other Assets from Illegal Drug-trafficking and Related Crimes and the Inter-American Convention on Mutual Assistance in Criminal Matters.

36. Nicaragua congratulated the Ad Hoc Committee for the Negotiation of a Convention against Corruption for its two years of intensive work. The Convention, which dealt with matters relating to the prevention and suppression of corruption, the illicit transfer of funds and the repatriation of assets, would undoubtedly help ensure that democratic values prevailed and would encourage social, economic and political development in all countries.

37. **Mr. Hiraj** (Pakistan) said that his delegation would like to associate itself with the statement made by the representative of Morocco on behalf of the Group of 77 and China.

38. Corruption, including the transfer of funds of illicit origin, was an evil which threatened the peace and prosperity of societies around the globe. It was a pervasive phenomenon which afflicted both the developed and the developing countries. The degree of corruption and its impact, however, varied. In many developing countries, it was a constant drain on their meagre resources and the cause of further impoverishment and indebtedness.

39. Pakistan had taken a number of measures to prevent and fight corruption. A process has been set in motion, through the National Accountability Bureau, to ensure that not only Government institutions and functionaries but also all elected representatives and the private sector remained accountable to the people. Measures had been adopted to enhance the rule of law and financial regulations.

40. The importance of taking firm action at the national level could not be overemphasized. However, without firm supportive action at the global level, national efforts were not likely to achieve the desired results. The international community must take action, particularly in three areas: (1) measures to prevent transnational corruption through denial of opportunities, (2) effective mechanisms to repatriate illegally acquired money to the countries of origin, (3) repatriation or prosecution of people indicted for corrupt practices in their home countries who were residing elsewhere.

41. Pakistan firmly believed that the United Nations provided an appropriate forum for initiating global action to address the menace of corruption and transfer of illegally acquired funds. In that context, it had strongly supported the initiation of negotiations on a United Nations Convention against Corruption and had actively participated in the work of the General Assembly's Ad Hoc Committee for the Negotiation of a Convention against Corruption. He was pleased to note that the Committee had successfully completed its work and that the draft instrument it had finalized enjoyed the consensus of the United Nations membership. Pakistan hoped that the signing of the Convention would usher in a new era of international cooperation to fight corruption leading to the recovery of illegally acquired money and assets and their return to the countries of origin.

42. Pakistan would like the international community to support its efforts, inter alia by: (1) preventing easy access and safe havens for illegally acquired money and assets in the form of offshore financial centres, "anonymous accounts" and secrecy laws; (2) assisting in investigation and prosecution of corruption-related offences and tracing and recovery of proceeds of corruption and of their repatriation to the country of origin; (3) cooperating on issues relating to disclosure of information, integrity in politics, corporate governance, and transparency in and sharing of information on international monetary transactions.

43. **Mr. Siv** (United States of America) said that it was encouraging that the work of the Second Committee, where many governments, as well as the Secretariat, had provided interesting and useful ideas about how best to prevent corruption and encourage international cooperation in the area of asset recovery was now supported by a new draft United Nations Convention against Corruption. The Convention

represented a breakthrough on the agenda item that would hopefully lead to effective action and results. The United States had been an active participant in the negotiations organized under the auspices of the United Nations Office on Drugs and Crime. The outcome of those efforts was a document that contained a chapter devoted to measures governments would commit to take to prevent corruption and another chapter to innovative measures for expediting the asset recovery process among nations. A number of recommended measures in the report – such as providing enhanced scrutiny of accounts and enforcing valid foreign judgements – had been incorporated in the text. The United States hoped the Convention would soon become an international agreement with legal force.

44. **Mr. Wirengjurit** (Indonesia) said that his delegation aligned itself with the statement made by the representative of Morocco on behalf of the Group of 77 and China. Corruption was one of the most serious threats against democracy. The embezzlement of funds earmarked for poverty eradication and sustainable development created serious obstacles to the effective mobilization of resources. It was therefore imperative to prevent and suppress corrupt practices. Since corruption was a multidimensional problem that involved relations between public and private entities, the problem could not be dealt with on a single front. All those responsible must be stopped. Accordingly, the issue of governance must be addressed, taking into account not only public institutions but private-sector entities as well.

45. The fight against corruption was a top priority for Indonesia. In order to combat crime and corruption, the Government had taken steps to strengthen legislation and enhance the management of public affairs while protecting the economic and social interests of the population. In that regard, the following legislation had been enacted: Act No. 31/1999 (subsequently amended by Act No. 20/2001), Act No. 30/2002 and Act No. 15/2002; those laws dealt with the elimination of corruption, the creation of an anti-corruption commission, and the fight against money-laundering and the financing of terrorism, as well as an independent financial information unit to fight money-laundering.

46. Indonesia strongly believed that corruption was not simply a local or a national problem, but that it had many transnational ramifications. International cooperation was needed, and such cooperation should be based on a global and multidisciplinary approach stressing the fight against corruption and the recovery of assets of illicit origin and their return to the countries of origin. His Government was participating in that process. Cooperation should include technical assistance to countries to help them draw up strategies for integrating a code of ethics and principles of integrity into the public and private sectors, and strengthening human and institutional capacities. Indonesia was pleased that the Ad Hoc Committee for the Negotiation of a Convention against Corruption had completed its task. His delegation also noted with satisfaction the entry into force of the United Nations Convention against Transnational Organized Crime.

47. **Mr. Sermoneta** (Israel) said that Israel attached high priority to the fight against corruption, including the transfer of funds of illicit origin and the funnelling of public funds and donor money to private hands. Such crimes could endanger the stability and security of societies and undermine the values of democracy, morality and the rule of law. The illicit acquisition of personal wealth by senior public officials could be particularly damaging to national economies and could jeopardize social, economic and political development. Promotion of international standards for transparency, accountability, integrity and good governance were therefore of the utmost importance. Those concerns were highlighted in the findings of the Global study on the transfer of funds of illicit origin (A/AC.261/12), as they appeared in the report of the Secretary-General (A/58/125). Corruption by the leaders of unaccountable regimes was particularly abhorrent because it stole resources from the very people those leaders were supposed to serve and made it extremely difficult for societies to emerge from despair, poverty and conflict.

48. The prospect of ratification of the United Nations Convention against Corruption constituted a significant step forward in the fight against international crime. Israel had been pleased to work actively with other delegations on the formulation of the draft and was ready to take part in the international efforts to achieve the goals of the Convention on the basis of due process of law. From Israel's perspective, the most significant breakthrough of the proposed Convention was the inclusion of the principle of returning funds obtained as a result of bribery or embezzlement to their country of origin. Israel supported the addition of future provisions to the Convention that would permit States Parties to prosecute not only those who had committed

acts of bribery and embezzlement in another State, but also in cases in which such acts had been committed against an international organization. Privileges and immunities were granted to international organizations in order to enable them to fulfil their duties and should not be abused. International organizations had their own legal personality and, as such, it was their duty to fight corruption. That duty was separate from and additional to the duties of its Member States. Thanks to its comprehensive and multidisciplinary approach, the new draft Convention presented an opportunity for greater cooperation not only among States Parties but also between them and international organizations. It was only through such full cooperation that significant results could be achieved.

49. **Mr. Ramadan** (Lebanon) said that his delegation supported the statement made by the representative of Morocco on behalf of the Group of 77 and China. Corrupt practices and the transfer of funds of illicit origin jeopardized the stability and security of societies, undermined democratic values and compromised the right of developing countries to sustainable development by depriving them of the modest resources available to them. In the fight against corruption and the transfer of funds of illicit origin, countries must coordinate their efforts at the national and international levels. Legislation should be harmonized at all levels in order to prevent such practices, promote cooperation among States and ensure good corporate governance in an interdependent world that was dominated by giant multinational companies.

50. Lebanon had complied with the requirement of General Assembly resolution 56/186 by submitting a detailed report on progress made in the implementation of the resolution. The Lebanese Penal Code established acts of corruption as offences liable to sanctions and required the confiscation of movable and immovable property derived from such acts. The law on illicit enrichment covered public officials or persons acting in the name of such officials where the enrichment accrued through bribery, trading in influence or by other means. Money-laundering was defined and sanctioned by Law No. 318. Lebanon was also a party to the United Nations Convention against Transnational Organized Crime and had participated in the negotiations on the drafting of a convention against corruption.

51. In conclusion, he informed the Committee that the earlier listing of Lebanon as a "non-cooperative country or territory" by the Financial Action Task Force on Money Laundering of the Organisation for Economic Cooperation and Development had been rescinded by the Task Force in June 2002 as a result of measures taken against money-laundering and related problems by Lebanon.

52. **The Chairman** said that, before closing the debate on agenda item 92, she would like to ask the representative of the United Nations Office on Drugs and Crime to inform members of the status of the new United Nations Convention against Corruption.

53. **Mr. Vlassis** (United Nations Office on Drugs and Crime) said that the highly favourable responses received from many delegations expressing their support for the new draft Convention augured well for the follow up to the process. The text of the Convention that had been drawn up by the Ad Hoc Committee would be submitted to the General Assembly at a plenary meeting. Once it was adopted by the Assembly, Mexico would host the High-level Political Conference for the Purpose of Signing the United Nations Convention against Corruption, to be held in Merida from 9 to 11 December. The procedure would be similar to the one followed for the signing of the United Nations Convention against Transnational Organized Crime. The ratification process would begin after the Convention was opened for signature. Thirty ratifications were needed in order for the Convention to enter into force. Given the support that had been shown for the instrument, there was every reason to expect ratification to proceed smoothly. After that, the implementation mechanism (Conference of the Parties) would become operational, marking the beginning of a new era of enhanced cooperation among countries in order to prevent and combat corruption.

54. **The Chairman** announced that the Committee had concluded its discussions on agenda item 92.

The meeting rose at 12 p.m.